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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT

PAPER NUMBER

2161

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/928,480

Applicant(s)

HIRAHARA ET AL.

Examiner

Etienne P LeRoux

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21, 31-38 and 41-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21, 31-38 and 41-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*Claim Status*

Claims 1-21, 31-38 and 41-44 are pending, claims 22-30, 39 and 40 have been cancelled.

Claims 1-21, 31-38 and 41-44 are rejected as detailed below.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites “a user data server having a user food database storing the information about the food to be managed for every user and used in every user’s residence.” The claim is indefinite because the claim is indefinite because the claim is directed to intended use without claiming how this step is put into practice. It is unclear how the data server is “used” in the user’s residence. Furthermore, it is unclear how the food is to be managed for the user and how the information in the server is “used” to manage the food for the user. Above claim limitation is drawn to intended use and will not be given patentable weight.

Claims 18 and 20 include language similar to claim 1 above and is thus rejected on a similar basis.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 18 and 20 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,444,965 issued to Ha et al (hereafter Ha).

Claims 18 and 20:

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Ha discloses a local food data base [Fig 3, 150] storing information about food to be managed for every user; access means for accessing via a public communication network [Fig 4, Internet] to a main data server [cooking data and recites provided over the Internet] ; and data processing means adapted to be accessed via a user communication network from a food storage apparatus or a food processor [Fig 2] to receive a requirement for readout of the information about the food stored on the local food data base, thereby accepting the requirement and providing the information about the food [Figs 3 and 4, col 4, lines 45-65]

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 1-11 and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of US Pat No 5,798,694 issued to Reber et al (hereafter Reber) and further in view of US Pat No 5,745,712 issued to Turpin et al (hereafter Turpin).

Claims 1, 10 and 41:

Brown discloses a main data server [system is able to be connected to the Internet, paragraph 27, Fig 2] having a main food data base [Fig 2, intended food related database 52, Fig 2] storing information about food to be managed together with a food identification code for every food [RF broadcasts, paragraph 51, the information about food including information about management of the food [inventory control 50, Fig 2, expired food items, paragraph 92] the main data server being adapted to be externally connected via a public communication network [Internet, paragraph 27];

Brown discloses above essential elements of the claimed invention and furthermore, discloses a storage area for food and home related products comprising a refrigerator/freezer [paragraph 49] but is silent regarding a storage area comprising which processes food. Reber discloses a storage area which processes food [col 3, lines 10-20, storage place 24 can be an oven which can heat the food item 20]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brown to include processing food as taught by Reber for the purpose of not only cooling the food item but also heating the food item. The skilled artisan would have been motivated to modify Brown per the above in order to include a home appliance which is used to cook food.

Furthermore, Brown discloses a user data server [Fig 2, home system is able to be connected to the Internet] having a user food database [Fig 3, storage area 40, paragraph 82, current inventory of food related items within a particular household] storing the information about the food to be managed for every user, the user data server being adapted to access to the main data server via the public communication network

Furthermore, Brown discloses a food storage apparatus [Fig 2, 40, paragraph 49] having a food managing function and adapted to access via a user communication network to the user data server, the food storage apparatus including food identification code input means for inputting the identification code affixed to the food, access means for accessing via the main data server to the global food data server so that the information about the food corresponding to the food identification code is downloaded, and data control means accessing via the user data server to the local food data server to receive the food information.

Brown discloses the essential elements of the claimed invention as noted above but does not disclose a food processor having an automatic food processing function. Reber discloses a food processor having an automatic food processing function [col 3, lines 5-20. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brown to include a food processor having an automatic food processing function as taught by Reber for the purpose of including a storage place which can heat the food item [col 3, line 18]. The skilled artisan would have been motivated to modify Brown per the above in order to include an oven which is a well-known kitchen appliance [col 3, lines 10-15]. Furthermore Reber discloses the food processor including food identification code input means for inputting the identification code affixed to the food [col 3, lines 24-29].

Brown discloses above food storage apparatus which accesses via a user data server and the food identification code a main data server in order to download information corresponding to the food identification code. Brown, however, does not disclose a food processor which accesses via a user data server and the food identification code a main data server in order to download information corresponding to the food identification code. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brown to include a food processor which accesses via a user data server and the food identification code a main data server in order to download information corresponding to the food identification code for the purpose of providing a food processor (oven) with the same automated functions as the food storage apparatus because Reber teaches that a food storage apparatus (refrigerator/freezer and an oven are both well-known kitchen appliances [Reber, col 3, lines 5-15].

The combination of Brown and Reber discloses the essential elements of the claimed invention as noted above but does not disclose a main food database and a user database associated with a food storage apparatus and a food processor. Turpin discloses the principles of good database design (i.e., normalization) which includes avoiding duplicate data in tables (each field should appear in one table only) [col 31, lines 54-65]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Brown and Reber to include a main food database and a user database associated with a food storage apparatus and a food processor based on the disclosure of Turpin for the purpose of integrating the local data into one database and similarly integrating the remote data into a single database. The skilled artisan would have been motivated to modify the combination of Brown and Reber



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per the above such that good database design is maintained and data has only to be inputted once because there is a single integrated database system.

Claim 2:

The combination of Brown, Reber and Turpin discloses the elements of claim 1 as noted above and furthermore, Brown discloses wherein the food storage apparatus has a function of the user data server [Fig 4, paragraph 85]

Claims 3 and 42:

The combination of Brown, Reber and Turpin discloses the elements of claim 1 as noted above and furthermore, Brown discloses wherein the main data server includes a personal food management data base and receives from the user data server the information about the food corresponding to a content stored on the local food data base, thereby storing the received information about the food [Fig 4, paragraph 85].

Claims 4, 43 and 44:

The combination of Brown, Reber and Turpin discloses the elements of claim 1 as noted above and furthermore, Brown discloses wherein the main data server accepts an access to the personal food management database received via the public communication network from a portable terminal unit [Fig 2, portable computer system 70].

Claim 5:

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The combination of Brown, Reber and Turpin discloses the elements of claims 1 and 3 as noted above and furthermore, Brown discloses wherein the user data server accepts an access to the user food database receives via the public communication network from a portable terminal unit [Fig 2]

Claim 6:

The combination of Brown, Reber and Turpin discloses the elements of claims 1 and 3 as noted above and furthermore, Brown discloses a portable terminal unit adapted to be connected to the public communication network so as to access via the main data server to the personal food management data base [Fig 2, potable computer system enters food related preferences which are stored in device 60].

Claim 7:

The combination of Brown, Reber and Turpin discloses the elements of claims 1, 3 and 4 as noted above and furthermore, Brown discloses the food storage apparatus uploads the information about the food stored on the user food database to the portable terminal unit [paragraph 75]

Claim 8:

The combination of Brown, Reber and Turpin discloses the elements of claim 1 as noted above and furthermore, Brown discloses wherein the food identification code input means of the food storage apparatus receives the food identification code delivered from a radio tag affixed to the food, and the data control means of the food storage apparatus accesses to the food local data

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base regarding the food identification code received by the food identification code input means, thereby adding or deleting the information about the food [paragraph 51]

Claim 9:

The combination of Brown, Reber and Turpin discloses the elements of claim 1 as noted above and furthermore, Reber discloses wherein the food identification code input means of the food processor receives the food identification code delivered from a radio tag affixed to the food, and the data control means of the food processor accesses to the local food data base regarding the food identification code received by the food identification code input means to download the information about processing of the food in the information about the food, thereby executing the automatic food processing function on the basis of the information about processing of the food [Reber, Fig 5]

Claim 11:

The combination of Brown, Reber and Turpin discloses the elements of claim 1 as noted above and furthermore, Reber discloses wherein when having executed the automatic food processing, the food processor delivers to the user data server a requirement of deleting the information about management of the food from the local food data base [Reber, Fig 7, step 112].

Claims 12, 15 and 31-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ha in view of Reber.

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Claims 12 and 15:

Ha discloses a main food data base [abstract includes cooking operations and menus downloadable from the Internet] storing information about food to be managed, the information about food including information about management of the food and information about processing of the food; and data processing means accepting an access received via a public communication network from a user data server, the data processing means further accepting the information about the food corresponding to the food identification code stored on a main food data base when the information about the food is required to be downloaded, thereby providing the information about the food [Fig 3, col 4, lines 45-65].

Ha discloses the essential elements of the claimed invention as noted above but does not disclose a food identification code for every food. Reber discloses a food identification code for every food. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ha to include a food identification code for every food as taught by Reber for the purpose of monitoring at least one condition of the food [col 3, lines 23-28]. The skilled artisan would have been motivated to modify Ha per the above such that a smart kitchen can be realized wherein the task of manually entering information about the food item can be avoided thus reducing manual operations and the possibility of user error [col 1, lines 25-45].

Claim 31:

Ha discloses access means for accessing via a main data server to a main food data base and downloading information about food [downloading cooking data and cooking operations,

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abstract], data control means for accessing via a user data server [Fig 4, 300] to a user food database [Fig 3, 150] to receive the information about the food; and food processing control means for inputting the food identification code affixed to the food to be processed, executing an automatic food processing on the basis of the information about processing obtained by the access means and the data control means [Fig 3, col 4, lines 45-65].

Ha discloses the essential elements of the claimed invention as noted above but does not disclose food identification code input means for inputting a food identification code affixed to food. Reber discloses food identification code input means for inputting a food identification code affixed to food [col 3, lines 23-28]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ha to include food identification code input means for inputting a food identification code affixed to food as taught by Reber for the purpose of monitoring at least one condition pertaining to the food [col 3, lines 23-30]. The skilled artisan would have been motivated to modify Ha per the above in order to create a smart kitchen which automatically processes a food item [col 1, lines 25-35]. The skilled artisan would have been motivated to improve the invention of Ha per the above in order to reduce manual data entry and thus reduce the possibility of error(s) [col 1, lines 25-40].

Claim 32:

The combination of Ha and Reber discloses the elements of claim 31 as noted above and furthermore, Reber discloses wherein the food identification code input means receives the food identification code delivered from the radio tag affixed to the food, and the data control means accesses to the local food data base to download the information about processing of the food

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and execute an automatic food processing on the basis of the information of processing of the food [col 3, lines 23-30].

Claim 33:

The combination of Ha and Reber discloses the elements of claim 31 as noted above and furthermore, Reber discloses wherein the food identification code input means receives the food identification code delivered from a radio tag affixed to the food, and the data control means accesses to the global food data base to download the information about processing of the food and execute an automatic food processing operation on the basis of the information about processing of the food [col 3, lines 23-30].

Claims 34 and 38:

The combination of Ha and Reber discloses the elements of claim 31 as noted above and furthermore, Reber discloses delivering, to the user data server, a requirement for deletion from the local food data base of the information about management of the food when the automatic food processing has been executed for the food [col 8, lines 60-65].

Claims 35-37:

Ha discloses causing access means to access via a main data server to a main food data base to download information about food corresponding to the food identification code [downloading cooking data and cooking operations, abstract], causing data control means to access via a user data server to a local food data base to receive the information about the food [Fig 3, 150]; and causing the food identification code input means to input the food identification

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code affixed to the food stored in a food storage apparatus and managing the stored food on the basis of the information about the food obtained by the access means and the data control means [Fig 7A].

Ha discloses the essential elements of the claimed invention as noted above but does not disclose food identification code input means for inputting a food identification code affixed to food. Reber discloses food identification code input means for inputting a food identification code affixed to food [col 3, lines 23-28]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ha to include food identification code input means for inputting a food identification code affixed to food as taught by Reber for the purpose of monitoring at least one condition pertaining to the food [col 3, lines 23-30]. The skilled artisan would have been motivated to modify Ha per the above in order to create a smart kitchen which automatically processes a food item [col 1, lines 25-35]. The skilled artisan would have been motivated to improve the invention of Ha per the above in order to reduce manual data entry and thus reduce the possibility of error(s) [col 1, lines 25-40].

Claims 13, 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Ha and Reber and further in view of Brown.

Claims 13 and 16:

The combination of Ha and Reber discloses the elements of claims 12 and 15 as noted above but does not disclose a personal food management data base managed for every user and receiving from the user data server the information about the food corresponding to a content

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stored on the local food data base and storing the same. Brown discloses a personal food management data base managed for every user and receiving from the user data server the information about the food corresponding to a content stored on the local food data base and storing the same [Fig 2, 60]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Ha and Reber to include a personal food management data base managed for every user and receiving from the user data server the information about the food corresponding to a content stored on the local food data base and storing the same as taught by Brown for the purpose of providing a database of personal user information which can be readily accessible by the main server. The skilled artisan would have been motivate to improve the combination of Ha and Reber per the above such that the main server can access the database of personal user information when the user is off-line, i.e., the user is not logged onto the network.

Claims 14 and 17:

The combination of Ha and Reber discloses the elements of claims 12 and 15 as noted above but does not disclose accepting an access from a portable terminal unit to the personal food management data base, the access being received via the public communication network. Brown discloses accepting an access from a portable terminal unit to the personal food management data base, the access being received via the public communication network [Fig 2, 70]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Ha and Reber to include accepting an access from a portable terminal unit to the personal food management data base, the access being received via the public communication network as taught by Brown for the purpose of providing and receiving



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communications via a portable device. The skilled artisan would have been motivated to modify the combination of Ha and Reber per the above in order to communicate with the system while away from a desk-top computer terminal.

Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ha in view of Brown.

Claims 19 and 21:

Ha discloses the elements of claims 18 and 20 as noted above but does not disclose accepting an access from a portable terminal unit to the personal food management data base, the access being received via the public communication network. Brown discloses accepting an access from a portable terminal unit to the personal food management data base, the access being received via the public communication network [Fig 2, 70]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ha to include accepting an access from a portable terminal unit to the personal food management data base, the access being received via the public communication network as taught by Brown for the purpose of providing and receiving communications via a portable device. The skilled artisan would have been motivated to modify Ha per the above in order to communicate with the system while away from a desk-top computer terminal.

***Response to Arguments***

Applicant's arguments and claim amendments filed 7/6/2006 have been considered but are not persuasive for the reasons given below.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Examiner is confused by Applicant's comments because the limitations are clearly mapped to the cited prior art in above Office action. Applicant makes statements that the prior art of reference does not disclose a certain essential feature of the claimed invention without pointing out errors in examiner's interpretation. Applicant fails to point to the specification for an explicit and intrinsic definition of the essential features of claimed invention and thus examiner is at a loss to respond in depth to Applicant's general statements that the cited prior art does not disclose an essential feature of the claimed invention without pointing out why examiner's interpretation differs from the specification such that prosecution can be advanced by establishing patentable difference(s) between the claimed invention and the cited prior art.

It is extremely difficult to understand how Applicant's most recent claim amendment "used in every user's residence" can distinguish over the prior art of record because this is a limitation concerning the use of information about food which is managed in a user's residence. The combination of references under which claim 1 is rejected reach "used in every user's residence."

*Contact Information*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Etienne LeRoux

8/28/2006

*ET LeRoux*

*Primary Examiner*